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THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Report of the Secretary-General prepared pursuant to Commission resolution 1991/65

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Introduction

1. In its resolution 1991/65 of 6 March 1991, the Commission on Human Rights requested the Secretary-General to report on the question of conscientious objection to military service, taking into account the comments provided by Governments and further information received by him, to the Commission at its forty-ninth session.

2. In accordance with this request, the Secretary-General invited States Members of the United Nations, by a note verbale dated 14 August 1992, to forward to him any comments or information on the above-mentioned question that they might wish to make. In reply to his request, the Secretary-General received information from the Governments of Argentina, Bahrain, Brazil, Costa Rica, Croatia, Denmark, Ecuador, Equatorial Guinea, Norway, Panama, Papua New Guinea, San Marino, Slovenia and Yugoslavia. These replies are contained in part I of the present report.

3. The Secretary-General also received information on the above-mentioned question from the Friends World Committee for Consultation, a non-governmental organization in consultative status (category II). The information is contained in part II of this report.

4. Any further information or comments will be submitted in addenda to the present report.

I. COMMENTS PROVIDED BY GOVERNMENTS

Argentina

[11 November 1992]
[Original: Spanish]

The Government of Argentina submitted a copy of a draft law, passed by the Chamber of Deputies and currently (October 1992) before the Senate, on national service for defence. Chapter V of the law, which deals with conscientious objection, is reproduced below. The text in its entirety is available, in Spanish, for consultation, in the files of the Secretariat. The Government also transmitted the text of the judgement of the Supreme Court, dated 18 April 1989, in the case of Alfred Portillo, by which Argentina legally recognized conscientious objection to obligatory military service. This text is likewise available for consultation.

"CHAPTER V

Conscientious objectors

Article 25

Persons who, prior to selection of their draft, feel unable to perform military training because they hold deep religious, philosophical or moral convictions which prevent them under any circumstances from using weapons or joining military or national defence bodies, may choose to perform alternative social service.

Article 26

Once exercised, the right of conscientious objection may not be waived. Persons recognized as objectors under the present Act shall be placed on reserve on completion of their alternative service.

Article 27

Alternative social service shall last 12 months.

Article 28

Any person in the situation provided for in article 25, or his legal representative, shall submit the application for alternative social service to the Federal Administrative Court of First Instance for the district in which he is domiciled.

Article 29

The application shall be accompanied by any supporting documents in the possession of the applicant, and any other documents shall be made available.

The facts demonstrating the existence of profound and sincere convictions of conscience incompatible with the various aspects of national military service shall be adduced and substantiated.

This procedure shall not entail any costs on the part of the applicant.

Article 30

Following the submission of the application, the district procurator shall have five (5) days in which to consider the matter and may propose appropriate measures for determining the accuracy of the facts cited by the applicant.

Within ten (10) days following the completion of the procedure referred to in the foregoing paragraph, the court shall hold a hearing at which the applicant, any witnesses and the representative of the Government Procurator's Office shall be present. The court shall hear at first hand the reasons given by the applicant, as well as any witnesses.

Following presentation of the evidence, the district procurator and the applicant shall have a further five (5) days for consideration, on completion of which a decision, open to appeal, shall be reached within 20 days.

Article 31

The court shall notify the Ministry of Defence of the application to benefit from the provisions of the present chapter and of the decisions reached.

Article 32

In the assessment the evidence, account shall be taken of the following factors:

(a) The sincerity of the applicant's beliefs, which may not be based exclusively on political affiliation;

(b) His personal background, particularly his religious, philosophical and moral activities, studies and practices;

(c) Any psychological reports which the court may see fit to request on the applicant's personality;

(d) The period during which the applicant has openly professed the beliefs on which the application under these provisions is based, which shall not be for less than one year prior to submission of the application.

The facts on which the application is based shall not be considered as substantiated exclusively by the declarations of the applicant.

Pending a decision, the applicant may not be conscripted for national military service. If the application is rejected and the decision is handed down subsequent to the conscription of his own draft, the applicant shall perform such service with the following draft.

Article 33

Alternative social service shall involve the performance of activities in the public interest and may take the form of the following tasks:

(a) Civil defence activities as prescribed by the relevant act;

(b) Health or social services;

(c) Protection of the environment, improvement of the rural environment and nature conservation.

Article 34

A commission established within the framework of the Ministry of Defence and comprising representatives of the Ministries of Defence and of Health and Social Services, shall, in accordance with the provisions and regulations of this Act, coordinate the performance of the alternative social service.

Article 35

The commission referred to in the foregoing article shall decide where the alternative social service is to be performed in each case and shall endeavour to select an area close to the applicant's domicile.

Article 36

Persons performing alternative social service may not engage in any public or private activity unrelated to such service, for its duration.

They may not engage in any political or trade-union activity during the hours and in the places where they perform such service. The exercise of the right to strike is incompatible with the obligations arising from such service.

Article 37

During the performance of alternative social service, conscientious objectors shall be entitled to food, clothing, transport and health care and to have their normal employment held open for them. The benefits referred to in this article shall be afforded to the persons in question by the entity utilizing their services.

Article 38

In the event of war or international armed conflict, alternative social service shall involve the performance of civil defence activities, together with the provision of public services and other work in the general interest. Such tasks may involve some element of danger, in order to ensure the equality of all citizens in regard to the common danger.

Article 39

Persons lodging conscientious objections after the time-limit laid down in article 32 (d) above and prior to their thirty-fifth birthday may initiate the procedure provided for in this chapter in order to obtain recognition as conscientious objectors when one (1) year has elapsed following the public declaration of the convictions on which their application to benefit from the provisions of this Act is based.

Except in time of war or of international armed conflict, initiation of the procedure shall preclude enlistment for training in the reserve forces. In the event of an unfavourable ruling being handed down after the date on which such training begins, they shall begin the aforementioned training in the year following that in which it should have taken place. In the event of a favourable ruling, they shall be enlisted in the reserve for the purposes referred to in article 38 of this Act.

Article 40

Persons performing alternative social service shall remain subject to the following regime of offences and penalties, notwithstanding those provided for in this Act for the national defence forces in general:

1. Any person subject to the provisions of this chapter who refuses to perform alternative social service shall, provided he does not commit a more serious offence, be liable to two to four years' imprisonment and general disqualification for the duration of the sentence;

2. Any person fraudulently availing himself of the provisions of this chapter shall be liable to imprisonment for two to four years.

Any person fraudulently seeking exemption from performing alternative social service shall be liable to the same penalty;

3. Provided the act in question does not constitute an offence attracting a heavier penalty, the following shall be liable to an extension of service of one to six months:

(a) Persons not presenting themselves to continue work not completed in the time prescribed by the competent authority;

(b) Persons demonstrating negligence in the performance of the tasks assigned to them;

(c) Persons refusing, without good reason, to carry out an order legally given to them during the performance of alternative social service;

(d) Persons failing to show proper respect for the authorities responsible for directing or supervising their service;

(e) Persons in any way disrupting order and discipline in the performance of alternative social service.

4. Any person failing, without good reason, to present himself, on the date set by the competent authority for the performance of alternative social service, to discharge the obligations which this entails, shall perform an extra four days of such service for each day that he is late in presenting himself up to a maximum of two years.

Article 41

The offences referred to in paragraphs 3 and 4 above shall give rise to an administrative inquiry, which shall be conducted in accordance with the provisions of the investigation regulations in effect in the national public administration. The individual in question or his legal representative may appeal any decisions taken in his regard directly to the Federal Court with jurisdiction in the place in which the service is performed. The appeal shall be lodged and substantiated within fifteen (15) days of the date on which the appellant is notified of the final administrative decision. The appeal procedure shall also be subject to the regulations governing the procedure for appeals against final decisions in ordinary proceedings, under the National Code of Civil and Commercial Procedure.

Article 42

In peacetime, persons committing offences during the performance of alternative social service shall be subject to the federal courts.

In time of war or international armed conflict, such persons shall be subject to the military courts and governed by the Code of Military Justice."

Bahrain

[29 October 1992]
[Original: English]

1. The Government of the State of Bahrain is pleased to inform the Secretary-General that the Government policy of recruitment into the armed forces is on a voluntary basis and, accordingly, Bahrain has never experienced any person claiming conscientious objection to military service. Government policy is unlikely to change on this subject due to the nature of defence requirements and the social and cultural infrastructure of Bahraini society.

2. The Government supports the Commission on Human Rights in its consideration of questions of conscientious objection to military service and looks forward to learning the Commission's final findings on this issue.

Brazil

[16 November 1992]
[Original: English]

1. The 1988 Federal Constitution stipulates in its article 143 that military service is compulsory according to the internal legislation. The Military Service Decree specifies that all nationals of Brazil who are 19 years old will be subject to military service. Article 143, paragraph 1, of the Federal Constitution stipulates that conscripts who declare their imperative conscientious objection to military service will be allowed in peacetime to accomplish alternative tasks. It is understood by imperative conscientious objection that resulting from religious, political or philosophical beliefs.

2. The constitutional text has been regulated by Decree No. 8.239 of 4 October 1991 which refers to alternative services to compulsory military service, and by Regulation No. 2.681 of 28 July 1992 which adopts the rules applicable to such alternative services.

3. The above-mentioned regulation specifies that the alternative service comprises administrative, welfare, benevolent or productive activities to be carried out in peacetime by those individuals who, after enlistment, allege conscientious objections arising from religious, political or philosophical beliefs to military activities. Women and churchmen are also exempted in peacetime from alternative services, which have a duration of 18 months. Those individuals enrolled in alternative services are entitled to all rights and prerogatives enjoyed by the citizens enlisted in the compulsory military service, including a remuneration equivalent to the soldiers' pay.

Costa Rica

[2 November 1992]
[Original: Spanish]

Costa Rica constitutionally abolished its army under the Political Constitution of 7 November 1949. Consequently, the question of conscientious objection to military service does not arise in Costa Rica.

Croatia

[16 October 1992]
[Original: English]

1. In accordance with the provisions of article 47, paragraph 2, of the Constitution of the Republic of Croatia, an objection of conscience is permitted to those who, on the ground of their religious or moral views, are not prepared to perform military duties in the armed forces. Such persons are obliged under the law to perform other duties.

2. The provisions of articles 81 through 94 of the Defence Act (Narodne novine) Nos. 49/91, 53A/91, 73/91 and 19/92), in conformity with the established West European practice, define in detail the ways of performing civilian service.

3. After being filed in the military register, a recruit who believes that he fulfils the conditions for the civilian service has to submit an application to this effect to the Civilian Service Commission at Ministry of Justice and Administration. The recruit can lodge a complaint against the decision of the said Commission appointed by the Government of the Republic of Croatia.

4. The civilian service is performed as a rule within the Croatian Army in duties not involving carrying and using arms, but can also be performed in organizations with an office or a seat in the Republic of Croatia.

5. The period of the civilian service is 15 months.

Denmark

[19 October 1992]
[Original: English]

1. Article 81 of the Danish Constitution prescribes that every fit man has to contribute in person to the defence of his country. The more detailed rules for this compulsory National Service are given in the Danish National Service Law of 1980.

2. As per article 2 of this law, National Service in Denmark can be:

(a) Military service;

(b) Civil defence service;

(c) Development service abroad for those with appropriate skills; and

(d) Civilian service.

3. The civilian service is administered by the Danish Conscription Administration under the Ministry of the Interior.

4. Danish legislation recognizes conscientious objection (CO) to military service. The first law was in 1917. Since that time many things have been changed, but the original ideas are still the same.

5. CO status is granted to a person who objects to military service based upon his conscience. This can be because of religious or ethical reasons. An application which is solely politically based will be refused.

6. Application of CO status must be sent in writing stating the reasons, i.e. the matter of conscience. This application should be sent within four weeks on receipt of the call-up papers for the armed forces or civil defence service.

7. The reason for this four-week time-limit is so that the military authorities have the possibility to replace the COs with other conscripts.

8. The application can be sent in before the conscript has received his call-up papers for the armed forces or civil defence service and CO status may be granted, but the length of the alternative service cannot be stated until the final half-yearly distribution of the conscripts has taken place and the call-up papers are sent out.

9. As per Law No. 394 of 10 June 1987, an application can now also be submitted during the service. Still, the application should be based upon the conscience of the conscript. He has to state, when his conscience-conflict started and the reasons for it. It should also be explained, in what way the conflict has been confirmed during his service.

10. In due time before being called up every conscript receives a leaflet which, among other things, describes the rules of compulsory National Service. This leaflet has a separate chapter on civilian service, containing information on the right to refuse military service for reasons of conscience, about the procedure for applying for CO status, and the length and types of work in the civilian service. Together with the call-up papers for the armed forces or civil defence service the conscripts receive information about the possibility of transfer to civilian service.

11. In order to prevent improper use of CO status for reasons other than that of conscience, the length of CO service has always been longer than the military service, approximately one-third longer. Up to 1986 the CO time was 11 months. As of 1 July 1986 the law was amended to the effect that now the length of the CO service has to be equal to the length of the service from which the conscript is transferred. In Denmark the lengths of service go from 3 days up to 14 months, so the COs will also have very differentiated lengths of service.

12. The service starts with an introductory stay of a maximum of 10 days, when the conscripts are informed of their duties and their rights and of the social and practical conditions of the service.

13. After this introduction the conscripts spend the rest of their service working in institutions with which the Danish Conscriptions Administration has made an arrangement about supplying COs for various jobs. The COs can during the introductory stay choose the sort of institution he finds most convenient as to interest, geographical position, etc. The institutions are evenly distributed all over the country, which makes it possible for most conscripts to get a job near his home.

14. The COs work in public organizations or institutions in non-military jobs. The specific rules are provided by the Minister of the Interior, and the practical organization rests with the Danish Conscription Administration. Examples of such institutions are those for children, young people, old people, and mentally and physically disabled people; cultural institutions such as museums, theatres, libraries, etc.; peace organizations; and organizations connected with the United Nations, the national church and environmental organizations.

15. It is a condition, however, that the conscript works as an "extra", i.e. he may not be employed in an approved vacant job, and he may not be used in a job demanding a special skill or in an institution which he knows or where he has been previously employed.

16. The COs have more or less the same conditions as the conscripts in the military forces and the civil defence service. The only difference concerns the economic conditions of the service: while the military conscripts and the conscripts in the civil defence service receive a monthly pay, the COs receive daily allowances. However, because of the special tax rules and because of a house-rent grant from the institution where the COs work, the actual economic difference is almost nil.

17. During the last 10 years the following numbers of conscripts have been transferred to civilian service:

Year	No.
1981	660
1982	513
1983	431
1984	378
1985	282
1986	329
1987	460
1988	595
1989	676
1990	614
1991	525

Ecuador

[12 October 1992]
[Original: Spanish]

In connection with Commission on Human Rights resolution 1991/65 entitled "Conscientious objection to military service", the Government of Ecuador would like to know what criteria are applied by other countries in this regard and whether any alternative studies have been conducted by the Commission on Human Rights in connection with the gradual elimination of compulsory military service, with a view to helping various countries to find a way forward in this area.

Equatorial Guinea

[31 August 1992]
[Original: Spanish]

In the Republic of Equatorial Guinea, military service is compulsory for male nationals; the second paragraph of article 16 of the Constitution establishes the compulsory nature of such service. The compulsory nature of military service is of course subject to the drafting of legislation governing military service in Equatorial Guinea. We therefore inform you that the problem of conscientious objection does not arise in Equatorial Guinea.

Finland

[25 November 1992]
[Original: English]

1. As from 1 December 1990, the Ministry of Labour has been in charge of drafting new legislation with respect to non-military/civilian service (Act on the Amendment of Section 3 of the Act on the Number of Ministries in and the General Sphere of Action of the Council of State: 995/90), and the revised law on Unarmed and Civilian Service (1723/91), which took effect on 1 January 1992, stipulates that issues relating to civilian service shall be concentrated in the Ministry of Labour. An Advisory Committee assists the Ministry in amending legislation relating to civilian service and in monitoring its implementation. In addition to the Ministry of Labour, the following instances are represented on the Committee: the defence administration, service places and persons in civilian service/conscientious objectors.

2. A person liable for military service who declares that profound conscientious grounds, based on religious or ethical conviction, prevent him from performing the service prescribed by the Military Service Act (452/50), shall be exempted from undertaking it in peacetime and obliged to perform civilian service as provided in the Civilian Service Act/in the Act governing, civilian service. A person may apply for civilian service at the call-up, any time after that or during the period of his military service, starting as a volunteer conscript, up to the end of the year when he reaches 50 years of age. The Act which exempts Jehovah's Witnesses from military service in certain cases (645/85) is still in force. According to this Act, a person who

is a member of the registered religious congregation called Jehovah's Witnesses may be exempted from performing military service or any substitutive service.

3. The existence of the conviction is ascertained by the assurance of the conscientious objector and no conscience-testing procedure is applied. According to law, civilian service duties shall be so arranged as to occasion no conflict with the conscientious objector's conviction. Non-military service must not be arranged in a manner which would discriminate against a person in civilian service on the ground of his race, origin, language, religion, political or other opinion or similar motive. Unarmed or non-military service is intended to be for the public good and compatible with the conviction of the person liable for service.

4. Civilian service lasts for 395 days, but for those who have applied for civilian service before 1987 the length of service is still 360 days. Under the revised law, the length of non-military service is thus considerably shorter than in the temporary law, which ceased to be effective at the end of 1991, providing for a 16-month period of service. Military service which is substituted by non-military service lasts for either 240, 285 or 330 days. The longer period of service for persons in civilian service/conscientious objectors is motivated by equality, since the two forms of service differ from each other in respect of the total strain. Under the revised law, persons in civilian service/conscientious objectors need not attend any service corresponding to refresher training courses. For a reservist applying for civilian service, a refresher training course is replaced by complementary service, which may not exceed 40 days.

5. Non-military service consists of work for the public good. The service includes a period of training which is meant to give basic information about the work period and to support general civilian education. Training consists of, e.g. issues relating to internationalism, peace and the environment as well as subjects relating to civil skills. Non-military service may not be performed in a foreign country, except for short trips on duty.

6. The core of the civilian service organization consists of four civilian service centres in charge of the placement in work of persons in civilian service and their training. Certain military service issues relating to persons liable for non-military service/conscientious objectors have been transferred from the military authorities to be administered by the centres and the Ministry of Labour. Complementary service, too, normally carried out in the sphere of the protection of the environment, is organized in the centres.

7. (Alternative) work service is performed mainly in the field of social welfare or health service, education or culture or in tasks connected with the protection of the environment or rescue work. In addition to public and local sectors, the service may be performed in certain other institutions including the church and certain non-profit-making civil societies. There are over 500 institutions which organize alternative work service in various parts of Finland. A civilian serviceman's/conscientious objector's service place is selected, in the first place, on the basis of his suitability for it.

8. The maintenance of and the benefits due to persons in civilian service/conscientious objectors are the same as those accorded to others liable for military service. For example, the service place is in charge of his accommodation, meals, health care and daily allowance. A person in civilian service may also receive a draftees dependants' allowance and interest subsidies on government-guaranteed study loans.

9. A person who refuses to perform civilian service/neglects his duty as a person liable for non-military service, a violation of civilian service, shall be sentenced to imprisonment for a period which is equivalent to half of the length of his remaining service time. An imprisonment caused by a violation of civilian service duties is thus now markedly shorter than it was under the previous legislation with unconditional sentences of imprisonment ranging from about 11 to 12 months. According to the revised legislation, a person serving his prison sentence may also, on appeal, be paroled to perform his civilian service.

10. In case a person in complementary service fails to obey call-up orders, a fine is imposed. It appears that the number of those refusing to undertake non-military service as an objection to the prevailing legislation has decreased after the revised Civilian Service Act took effect.

11. The number of persons applying for a civilian service status was relatively stable in the 1980s, amounting to some 400 to 500 persons a year. In addition, an average 800 reservists used to apply for non-military service. In 1991, 1,052 conscripts/military servicemen transferred to civilian service (plus 652 reservists). In 1992, the number will rise, since, on 6 October 1992, the Ministry of Labour statistics had already recorded 1,605 new persons undertaking civilian service (in addition, just over 300 persons in complementary service from the reserve forces).

12. Moreover, Section 36a of the Conscription Act (1728/91) provides the possibility to perform so-called unarmed service. A person liable for military service who is prevented from performing armed military service by profound conscientious grounds based on conviction and who does not apply for civilian service as separately provided must, on application, be released from armed service in peacetime and ordered to undertake unarmed service.

Norway

[7 September 1992]
[Original: English]

1. Section 109 of the Norwegian Constitution of 1814 states the obligation of every citizen to serve in the armed forces of his native country within a fixed period.

2. Compulsory conscription for all men was introduced by an Act of 1876, but the right to conscientious objection was first recognized in 1922 by an amendment to the Military Penal Code. Until 1922 negators, who were mostly Quakers, were punished.

3. In 1922 the Act relating to Civilian Conscript Workers provided for the existence of an alternative civilian service. Further legal amendments relating to the situation of the conscientious objectors (COs) have been made since, and the most recent legislation relevant to the COs is the Act relating to Exemption from Military Service for Reasons of Personal Conviction of 19 March 1965.

4. The first paragraph of section 1 of this Act, in which the requirements for such exemption are laid down, was amended by Act No. 42 of 22 June 1990. The provision now reads (the new wording of the provision is underlined):

> "If there is reason to presume that a conscript is unable to perform military service of any kind without coming into conflict with his serious convictions, inter alia that he is thereby compelled to compromise beliefs that are of fundamental importance to him and that are related to the use of weapons of mass destruction as they could be expected to be used in modern-day defence, he shall be exempted from such service by the competent Ministry or by judgement pronounced pursuant to the provisions of this Act."

5. The purpose of the amendment was to establish clearly that exemption could be granted to an individual for whom military service of any kind in a defence system or conflict which may involve the use of nuclear weapons would be contrary to his serious conviction.

6. The following statistics show the number of persons who applied for the status of conscientious objector, and the number of persons who were actually recognized as such in 1987-1990:

Year	Number of applicants	Number of applications withdrawn	Number recognized
1987	2 360	240	1 629
1988	2 360	210	1 596
1989	2 259	206	1 742
1990	2 548	150	2 034
1991	2 666	356	1 930

7. The length of the alternative service is 16 months, whereas the length of the military service is 12-15 months depending on the branch of armed forces.

8. Applications for CO civilian service can be made at any time, either before or during the military service. Military conscripts who are granted civilian service will have to serve a minimum of four months in addition to the remainder of his military service, no matter how long he had served in the military prior to the civilian service.

9. The alternative service for COs is mainly served in the health and social welfare sectors, humanitarian organizations, research institutions, museums and forestry and other agricultural work.

10. The economic profits of such work go to the State, which has donated this to UNICEF since 1963.

11. The Ministry of Justice has published an information brochure about the right to refuse military service.

Panama

[31 August 1992]
[Original: Spanish]

1. The 1972 Political Constitution of the Republic of Panama, as amended by the Amending Acts of 1978 and by the Constitutional Act of 1983, provides as follows:

> "Article 306. All Panamanians are required to bear arms in order to defend national independence and territorial integrity, except as provided in article 16 of the Constitution. Implementation and the conditions of performance shall be governed by legislation.
>
> Article 16. Naturalized Panamanians are not required to bear arms against their country of origin".

2. The national legal system makes no provision for objection to military service by young Panamanians. However, such service is compulsory only in defence of the country.

3. It should be noted that the Legislative Assembly has now approved draft amendments to the Political Constitution of the Republic of Panama, which are to be voted on in a referendum on 15 November 1992. Among the changes under this legislation, is the replacement of articles 305 and 306 of Title XII, "National defence and public security", by "Police and armed forces".

4. Article 305 of the Constitution provides that "The Republic of Panama shall have no army". The organization of the necessary police services, with separate chains of command and structures and without autonomy as regards administration, finance and procurement is covered by legislation. The Constitution also establishes that the President of the Republic is the "Supreme Commander" of all police services which, as the representatives of authority, "shall be subject to the civil authorities and consequently shall carry out the orders issued by the national, provincial and municipal authorities in the performance of their lawful functions". The current concept of "National defence and public security" is removed from the Constitution.

5. Article 306 provides that the police services are non-belligerent and that their members may not make political statements or declarations, individually or collectively, or become involved in party politics, except to vote. The penalty for failing to observe this rule is instant dismissal.

San Marino

[26 August 1992]

According to the information received from the Government of San Marino, military service does not exist in this country.

Slovenia

[31 August 1992]
[Original: English]

1. The Constitution of the Republic of Slovenia, of 23 December 1992, regulated the right to conscientious objection as one of the basic human rights, provided for in chapter II of the Constitution.

2. Article 46 of the Constitution reads:

"The Right of Conscientious Objection.

The Right of Conscientious Objection shall be permitted in such circumstances as are determined by Law, in so far as the rights and freedoms of others are not affected."

3. The Law will, on the basis of the above-cited article, regulate cases in which individuals will assert the right to conscientious objection not only in the case of military service, which is already provided for in the defence legislation, but also in other cases in which philosophical, religious, moral or other personal determinations do not allow individuals to fulfil legal provisions.

4. Article 123 of the Constitution, which regulates the duty to participate in defence of the State, reads:

"The Duty to Serve in the Defence Forces.

Participation in the defence of the State shall be compulsory for each citizen within such limits and in such manner as may be laid down by Law.

Any citizen who, because of his religious, philosophical or humanitarian beliefs, is not willing to perform military duty, should be given the opportunity of participating in the defence of the State in some other manner."

5. Consequently (according to article 123), every citizen can, on the basis of the Constitution, assert the right to conscientious objection in the case of military service.

Tunisia

[25 November 1992]
[Original: French]

1. Act No. 89-51 of 14 March 1989, concerning national service, and subsequent regulations provide for and deal with all social and humanitarian circumstances which might prevent young citizens from performing national service. The cases dealt with include those of students, family breadwinners, Tunisian nationals resident abroad and persons considered legally incapable.

2. In addition, young Tunisians may perform national service in the form of individual assignments in cases of necessity and according to clearly defined rules.

Yugoslavia

[23 November 1992]
[Original: English]

1. Conscientious objection to military service is treated in the Yugoslav penal legislation as a criminal offence of failure to carry out and obey orders under article 201 of the Penal Code of the Socialist Federal Republic of Yugoslavia punishable with a prison sentence of up to 10 years; of refusal to receive and use arms under article 202 of the same Penal Code punishable with a prison sentence of up to 10 years; and as a criminal offence of draft dodging and avoidance of military service under article 214 of the same Penal Code punishable with a prison sentence of up to 10 years.

2. In the last three years, military courts in the Federal Republic of Yugoslavia have decided 19 cases of the commission of these offences and passed the following sentences: two perpetrators were sentenced to five months in prison, one to six months, one to ten months, one to one year, two to two years, and twelve perpetrators were given suspended sentences.

3. The Law on Military Service (Official Gazette of the Socialist Federal Republic of Yugoslavia, Nos. 64/85, 26/89 and 30/90), article 22, provides that military service shall last 12 months.

4. Article 298 of the draft law on the army of Yugoslavia provides that military service shall last 10 months.

5. A recruit who for religious or other reasons of conscience does not want to do his military service carrying arms or wishes to serve it in civil service, shall do his military service in the army of Yugoslavia and shall not carry arms or in civil service for a duration of 20 months.

6. If while doing his military service a recruit decides to receive arms, the military service shall continue under the programme for soldiers who received arms and the military service shall last 10 months.

II. OTHER INFORMATION RECEIVED

Non-governmental organizations

Friends World Committee for Consultation

[28 October 1992]
[Original: English]

1. Quakers have for more than 300 years refused to participate in war, believing it is wrong to kill or to train people to kill. This is a conviction held by many people of different religious faiths and beliefs. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.

2. Friends World Committee for Consultation, which represents Quakers from around the world, welcomes resolution 1989/59 of the United Nations Commission on Human Rights which "recognizes the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion..."

3. In recent years there have been important advances in the recognition by many Member States of the United Nations of the right to conscientious objection and the list of countries having or considering such legislation continues to grow. However, not all States respect the right to conscientious objection to military service and hundreds of people are imprisoned or otherwise punished because of their principled objection to the taking of human life. More alarming are the frequent reports of forced conscription through kidnapping and street round-ups. Some of those forcibly recruited are young children under the age of conscription.

4. Friends World Committee for Consultation welcomes the Secretary-General's report entitled "Conscientious objection to military service" contained in document E/CN.4/1991/64.

5. Friends World Committee for Consultation asks the Commission to:

(a) Recognize that conscientious objection to military service derives from reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, or similar motives;

(b) Recognize the right of an individual to be released from the armed forces on grounds of conscience or profound conviction;

(c) Request States to disseminate information about the right to conscientious objection to military service, particularly through youth

organizations; the Secretary-General should include the right to conscientious objection to military service in the United Nations public information activities, including the World Conference on Human Rights;

(d) Emphasize that alternative service should promote justice, peace, sustainable development and international understanding. Alternative service must never be punitive or used as a means of punishment;

(e) Request the Secretary-General to update the information provided in the annexes to the report by Messrs. Eide and Mubango-Chipoya entitled "Conscientious objection to military service" (E/CN.4/Sub.2/1983/30/Rev.1.).